UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Via Electronic Mail and U.S. Postal Service Mail
Certified Mail Receipt No. 7008 1830 0002 6279 5288

November 10, 2010

Mark Gille, Agent
Broadway Real Estate Services, Inc
As Agent for 100 California Street Property LLC
100 California Street
Suite 610
San Francisco, CA 94111

Re: Polychlorinated Biphenyls – USEPA Supplemental Conditional Approval Under 40 CFR 761.61(a), Toxic Substances Control Act, *"100 California Street Building Façade Repairs PCB Containing Materials"*

Dear Mark Gille:

The notification for cleanup of polychlorinated biphenyls (PCBs) at the 100 California Street Building (Building) titled *"100 California Street Building Façade Repairs PCB Containing Materials,"* dated July 13, 2010 (Notification)[1] was deemed approved on September 6, 2010 consistent with the requirements in 40 CFR 761.61(a)(3)(ii). This section of the Toxic Substances Control Act (TSCA) regulations for polychlorinated biphenyls (PCBs) provides that, if the U.S. Environmental Protection Agency (USEPA) does not respond to a notification within 30 days after receipt, as is the case here, the person submitting the notification may assume that it is complete and acceptable. USEPA Region 9 (USEPA R9) received the Notification on August 6, 2010.

After further reviewing the Notification, however, USEPA R9 has determined that some changes to the Notification are necessary to ensure the cleanup and disposal of PCB remediation waste and disposal of PCB bulk product waste are conducted in accordance with the requirements in 40 CFR 761.61(a)(5) and 40 CFR 761.62. Therefore, by this supplemental conditional approval, USEPA R9 is modifying the BRES Notification in Section 3 of this letter. Sections 1 and 2 of this letter contain a brief background on the PCB cleanup at the 100 California Street Building (Building) and associated pilot study, respectively.

Section 1: PCB Cleanup Project Background

The Building consists of 14-stories and was constructed in the 1960s. During a 2009 inspection and before conducting repairs, PCB-containing caulk (or sealant) was found on the exterior of the Building - in joints between granite panels, marble panels, metal panels, and metal mullions. PCBs were detected in the joint sealant at a maximum of 189,000 milligrams/ kilogram (mg/kg). The TSCA PCB regulations in 40 CFR 761.20 do not authorize the use of caulk or sealants containing PCBs at levels equal to or above 50 mg/kg.

[1] *"100 California Street Building Façade Repairs PCB Containing Materials,"* dated July 13, 2010 (Notification) and prepared by RGA Environmental, Inc. for Broadway Real Estate Services LLC

Caulk or sealants found to contain PCBs at these levels are regulated under TSCA and must be removed and disposed of as PCB bulk product waste following the requirements in 40 CFR 761.62.

PCBs have migrated from the caulk and contaminated materials in the exterior of the Building that were in contact with the caulk. PCB caulk has also contaminated soils adjacent to the Building. These contaminated materials and soils are PCB remediation waste. To continue the use of the Building surfaces contaminated by PCBs, BRES must clean up these surfaces consistent with the requirements in 40 CFR 761.61 and in accordance with the use authorization in 40 CFR 761.30(u).

Based on all of the above, BRES and Urban Water Proofing (prime Contractor) submitted the Notification under 40 CFR 761.61(a) (PCB self implementing cleanup) to (1) remove and dispose of PCB-containing caulk, (2) clean up PCB-contaminated materials in the exterior of the Building, and (3) dispose of PCB remediation waste (e.g., PCB-contaminated soils and cleanup wastes such as personal protection equipment). BRES' Notification is based on a pilot study conducted in 2009 by RGA Environmental Inc. for BRES. PCB contaminated materials in the exterior of the Building include materials such as metal and decorative stone surfaces. BRES must implement the Notification as modified in Section 3 of this letter.

Section 2: PCB Cleanup Pilot Study

In 2009, samples of caulk from the Building were analyzed and the caulk found to contain PCBs (Aroclors 1254 and 1260). On the first floor, PCBs in caulk ranged from non-detect to a maximum of 61 mg/kg. On the second floor and above, PCBs in caulk in stone to stone and stone to metal surfaces ranged from 12 mg/kg to 38,000 mg/kg. The caulk on metal to metal surfaces beneath windows had a maximum of 189,000 mg/kg. In general, PCBs have migrated from the caulk into building materials (e.g., urethane, metal, and stone) that have been in contact with the caulk. However, based on stone chip samples collected from the Building, migration of PCBs into the stone is below 10 mg/kg. Soils in planters adjacent to the building contain PCBs (Aroclor 1254 and 1260). Based on discreet soil samples, PCB levels in soil from the planters ranged from 1.0 to 39 mg/kg.

In 2009, BRES and its consultants Urban Water Proofing and RGA Environmental Inc. conducted a pilot study involving removal of PCB-containing caulk, collection of decorative stone (i.e., granite and marble) chip samples for PCB analysis, cleanup of surfaces (decorative stone, metal) contacting the caulk using alcohol, and collection of wipe samples from cleaned up surfaces to determine PCB levels after cleanup. The pilot study showed that after surface cleanup with alcohol, PCBs remain at low levels in the decorative stone. Decorative stone (marble and granite) will remain in place since the entire Building façade consists of finished granite, marble, glass, and metal.

Section 3: USEPA R9's Modifications to BRES Notification

On September 6, 2010, the BRES Notification was deemed approved without a formal letter from USEPA R9 in accordance with TSCA requirements in 40 CFR 761.61(a)(3)(ii). That approval, however, does not relieve the owner of the 100 California Street Building from complying with all other applicable federal, state, and local regulations and permits. As explained earlier in this letter, USEPA R9 is modifying the Notification herein. Departure from the modified Notification without prior written permission from USEPA R9 may result in the commencement of proceedings to revoke the approval, and/or an enforcement action. Nothing in the

Notification, as modified herein, bars USEPA R9 from imposing penalties for violations of the Notification or for violations of applicable TSCA PCB requirements for activities not covered under the Notification.

The Notification, as modified herein, only applies to the cleanup of PCBs that migrated from the PCB-containing caulk on exterior surfaces of the Building into the exterior materials of the Building and to soils in planters adjacent to the Building contaminated by PCB containing caulk. USEPA R9 reserves the right to require additional characterization and/or cleanup of PCBs at the Building if new information (such as cleanup verification sampling results) shows that PCBs remain at the Building above the approved PCB cleanup levels. The following are the conditions that amend the terms set forth in that Notification:

1. **Cleanup of PCBs that migrated from PCB caulk.** The PCB cleanup must be conducted following the 2009 Pilot Study and all applicable requirements in 40 CFR 761.61(a).

2. **PCB cleanup level for Building exterior. First Floor, non porous (metal, certain stones such as polished granite) surfaces.** The PCB cleanup level for non-porous surfaces on the exterior of the First Floor (areas less than 25 feet from ground surface) of the Building is less than or equal to 10 micrograms /100 square centimeters (ug/100 cm^2).

3. **PCB cleanup level for Building exterior. Second and Upper Floors, non porous (metal, certain stones such as polished granite) surfaces.** The PCB cleanup level for non-porous surfaces on the exterior of the Second and Upper Floors (areas above 25 feet from ground surface) of the Building is less than or equal to 15 ug/100 cm^2.

4. **PCB-contaminated soils in planter boxes adjacent to Building.** PCB contaminated soil must be disposed of as PCB remediation waste following the applicable disposal requirements in 40 CFR 761.61(a)(5). PCB-contaminated soils in the planters must not be mixed with clean soils before disposal or for continued use consistent with TSCA's anti-dilution provisions in 40 CFR 761.1(b)(5).

5. **Deed notice.** According to the findings of the pilot study, residual PCB levels of less than 0.79 mg/kg and of about 7.32 mg/kg will remain in decorative stone on the First Floor and Second Floor and above, respectively. These residual concentrations are based on bulk stone chip samples. Additional cleanup of decorative stones on the Building façade to reduce residual PCB concentrations is not feasible, cost effective, or result in additional benefits to the environment. New non-PCB sealant or caulk will be applied to the exterior of the Building to replace the PCB–containing caulk. Based on literature research, residual PCBs in the decorative stone is likely to be absorbed by the new caulk or sealant.

   Within 60 days after completion of the PCB cleanup, BRES must submit for USEPA R9 review a deed notice prepared in accordance with California state law that, at a minimum contains, the information described in 40 CFR 761.61(a)(8). In addition, the deed notice must document the PCB concentrations remaining in the exterior of the Building, the procedures that will be followed in subsequent renovations or repairs to the exterior of the Building to ensure proper handling and disposal of joint sealants if these contain PCBs due to absorption from the decorative stones, and procedures for proper handling and disposal of PCB-contaminated decorative stones that may need to be replaced during repairs or renovation of the Building exterior. Upon USEPA R9's written approval of the deed notice, BRES must record the deed notice in accordance with California law.

6. **PCB Cleanup Report.** Within 45 days after completing the PCB cleanup, BRES must submit a PCB cleanup completion report that at a minimum meets the requirements in 40 CFR 761.61(a)(9) and 40 CFR 761.125(c)(5).

Finally, BRES' PCB cleanup described in the Notification and as modified by this letter only applies to the exterior of the Building. USEPA R9 reserves its rights under TSCA to require further cleanup of PCBs at the Building if new information reveals the need for further cleanup.

We look forward to be of assistance during BRES implementation of the approved Notification. Please call Carmen D. Santos at 415.972.3360 if you have any questions concerning this conditional approval.

Sincerely,

Arlene Kabei
Associate Director
Waste Management Division

Cc: Steve Armann, USEPA R9
Carmen Santos, USEPA R9